

CLOSED,SCR

**United States District Court  
Middle District of Pennsylvania (Scranton)  
CIVIL DOCKET FOR CASE #: 3:11-cv-00588-ARC**

Baker v. U.S. Department of Homeland Security (U.S. Secret Service)

Assigned to: Honorable A. Richard Caputo

Cause: 05:552 Freedom of Information Act

Date Filed: 03/29/2011

Date Terminated: 01/18/2013

Jury Demand: None

Nature of Suit: 895 Freedom of Information Act

Jurisdiction: U.S. Government Defendant

**Plaintiff**

**David M. Baker**

represented by **Scott E. Schermerhorn**  
Law Office of Scott E. Schermerhorn  
The Ritz Building  
222 Wyoming Avenue  
Scranton, PA 18503  
(570) 348-1020  
Email: [lawyer527@aol.com](mailto:lawyer527@aol.com)  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**U.S. Department of Homeland Security  
(U.S. Secret Service)**

represented by **D. Brian Simpson**  
U.S. Attorney's Office  
228 Walnut Street  
Suite 220  
Harrisburg, PA 17108  
(717) 221-4482  
Fax: 17172212246  
Email: [D.Brian.Simpson@usdoj.gov](mailto:D.Brian.Simpson@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Mark E. Morrison**  
Office of the United States Attorney – Civil  
228 Walnut Street  
Suite 217  
Harrisburg, PA 17108  
717-221-4482  
Email: [Mark.E.Morrison@usdoj.gov](mailto:Mark.E.Morrison@usdoj.gov)  
**TERMINATED: 10/23/2011**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
03/29/2011	<u>1</u>	COMPLAINT against U.S. Department of Homeland Security (U.S. Secret Service) ( Filing fee \$350, Receipt Number 0314-2140135), filed by David M. Baker. (Attachments: # <u>1</u> Civil Cover Sheet)(ao, ) (Entered: 03/29/2011)
03/29/2011		Summons Issued as to U.S. Department of Homeland Security (U.S. Secret Service) and provided to Atty Schermerhorn for service on Defendant(s). (ao, ) (Entered: 03/29/2011)
04/19/2011	<u>2</u>	LETTER ORDER Re: Case Assignment and Procedures. Signed by Honorable A. Richard Caputo on 4/19/11. (jam, ) (Entered: 04/19/2011)
05/08/2011	<u>3</u>	SUMMONS Returned Executed by David M. Baker. All Defendants. (Attachments: # <u>1</u> Exhibit(s) U.S. Postal Return Receipt, # <u>2</u> Exhibit(s) U.S. Postal

		Return Receipt)(Schermerhorn, Scott) (Entered: 05/08/2011)
09/23/2011	<u>4</u>	NOTICE of Appearance by Mark E. Morrison on behalf of U.S. Department of Homeland Security (U.S. Secret Service). (Morrison, Mark) (Entered: 09/23/2011)
09/23/2011	<u>5</u>	Unopposed MOTION for Extension of Time to Respond to Complaint by U.S. Department of Homeland Security (U.S. Secret Service). (Attachments: # <u>1</u> Certificate of Concurrence, # <u>2</u> Proposed Order)(Morrison, Mark) (Entered: 09/23/2011)
09/26/2011	<u>6</u>	ORDER granting <u>5</u> Motion for an Extension of Time within which to respond to Plaintiff's Complaint. Defendant's response is due 11/7/11. Signed by Honorable A. Richard Caputo on 9/27/11 (jam, ) (Entered: 09/26/2011)
10/23/2011	<u>7</u>	ATTORNEY SUBSTITUTION – Withdrawal and Entry of Attorney Appearance. Attorney Mark E. Morrison terminated. Attorney D. Brian Simpson for U.S. Department of Homeland Security (U.S. Secret Service) added. (Simpson, D.) (Entered: 10/23/2011)
11/07/2011	<u>8</u>	MOTION to Dismiss <i>or in the Alternative, for Summary Judgment</i> by U.S. Department of Homeland Security (U.S. Secret Service). (Attachments: # <u>1</u> Certificate of Nonconcurrence, # <u>2</u> Declaration w/Exhibits, # <u>3</u> Proposed Order, # <u>4</u> Proposed Order)(Simpson, D.) (Entered: 11/07/2011)
11/11/2011	<u>9</u>	Emergency MOTION for Protective Order <i>filed</i> by David M. Baker. (Attachments: # <u>1</u> Certificate of Nonconcurrence, # <u>2</u> Proposed Order)(Schermerhorn, Scott) (Entered: 11/11/2011)
11/14/2011	<u>10</u>	United States' Consent to Protective Order by U.S. Department of Homeland Security (U.S. Secret Service). <u>9</u> Emergency MOTION for Protective Order <i>filed</i> , <u>8</u> MOTION to Dismiss <i>or in the Alternative, for Summary Judgment</i> . (Attachments: # <u>1</u> Proposed Order)(Simpson, D.) (Entered: 11/14/2011)
11/14/2011	<u>11</u>	ORDER granting <u>9</u> Motion for Protective Order to the extent the Clerk of Courts is hereby directed to seal the Declaration of Craig W. Ulmer (Attachment 2 to Doc. 8), with attached exhibits. Signed by Honorable A. Richard Caputo on 11/14/11 (ga, ) (Entered: 11/14/2011)
11/14/2011	<u>12</u>	DOCUMENT SEALED pursuant to Court Order (ga, ) (Entered: 11/14/2011)
11/15/2011	<u>13</u>	RESPONSE by David M. Baker to <u>8</u> MOTION to Dismiss <i>or in the Alternative, for Summary Judgment</i> . (Schermerhorn, Scott) (Entered: 11/15/2011)
11/18/2011	<u>14</u>	Unopposed MOTION for Extension of Time to File Brief to <u>8</u> MOTION to Dismiss <i>or in the Alternative, for Summary Judgment</i> filed by U.S. Department of Homeland Security (U.S. Secret Service). (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Certificate of Concurrence)(Simpson, D.) (Entered: 11/18/2011)
11/18/2011	<u>15</u>	Unopposed MOTION to Exceed Page Limitation by U.S. Department of Homeland Security (U.S. Secret Service). (Attachments: # <u>1</u> Certificate of Concurrence, # <u>2</u> Proposed Order)(Simpson, D.) (Entered: 11/18/2011)
11/21/2011	<u>16</u>	ORDER granting <u>15</u> Motion for Leave to File Excess Pages, not to exceed 30 pages. Signed by Honorable A. Richard Caputo on 11/21/11 (jam, ) (Entered: 11/21/2011)
11/21/2011	<u>17</u>	ORDER granting <u>14</u> Motion for Extension of Time to File Response/Reply re <u>8</u> MOTION to Dismiss <i>or in the Alternative, for Summary Judgment</i> Brief in Support due by 11/23/2011 Signed by Honorable A. Richard Caputo on 11/21/11 (jam, ) (Entered: 11/21/2011)
11/23/2011	<u>18</u>	BRIEF IN SUPPORT re <u>8</u> MOTION to Dismiss <i>or in the Alternative, for Summary Judgment</i> filed by U.S. Department of Homeland Security (U.S. Secret Service). (Attachments: # <u>1</u> Unpublished Opinion(s))(Simpson, D.) (Entered: 11/23/2011)
11/23/2011	<u>19</u>	STATEMENT OF FACTS re <u>18</u> Brief in Support of Motion for Summary Judgment filed by U.S. Department of Homeland Security (U.S. Secret Service).(Simpson, D.) (Entered: 11/23/2011)

12/13/2011	<u>20</u>	ANSWER TO STATEMENT OF FACTS re <u>19</u> Statement of Facts filed by David M. Baker.(Schermerhorn, Scott) (Entered: 12/13/2011)
12/13/2011	<u>21</u>	BRIEF IN OPPOSITION re <u>8</u> MOTION to Dismiss <i>or in the Alternative, for Summary Judgment</i> filed by David M. Baker. (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Proposed Order)(Schermerhorn, Scott) (Entered: 12/13/2011)
12/22/2011	<u>22</u>	REPLY BRIEF re <u>8</u> MOTION to Dismiss <i>or in the Alternative, for Summary Judgment</i> filed by U.S. Department of Homeland Security (U.S. Secret Service).(Simpson, D.) (Entered: 12/22/2011)
01/25/2012	<u>23</u>	MEMORANDUM re <u>8</u> MOTION to Dismiss <i>or in the Alternative, for Summary Judgment</i> filed by U.S. Department of Homeland Security (U.S. Secret Service) Signed by Honorable A. Richard Caputo on 1/24/12. (jam, ) (Entered: 01/25/2012)
01/25/2012	<u>24</u>	ORDER granting in part and denying in part <u>8</u> Motion to Dismiss. IT IS HEREBY ORDERED that Defendants Motion to Dismiss, or in the Alterative, for Summary Judgment. (Doc. 8) is granted in part and denied in part as follows: 1)To the extent Plaintiffs claim is seeking to compel the Defendant to respond to his FOIA claim, this claim is MOOT and the Motion to Dismiss is GRANTED.2)In all other respects, Defendants Motion (Doc. 8) is DENIED.3)The Secret Service is directed to submit a Vaughn Index within sixty (60) days of the date of this Opinion. Signed by Honorable A. Richard Caputo on 1/24/12 (jam, ) (Entered: 01/25/2012)
03/23/2012	<u>25</u>	MOTION to Seal filed by U.S. Department of Homeland Security (U.S. Secret Service). (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Supplement)(dh) (Entered: 03/23/2012)
03/23/2012	<u>26</u>	DOCUMENT(S) PENDING SEALING DECISION (Attachments: # <u>1</u> Exhibit(s)) (dh) (Entered: 03/23/2012)
03/26/2012	<u>27</u>	CERTIFICATE of (Defendant's Certificate of Compliance with January 25, 2012 Court Order) by U.S. Department of Homeland Security (U.S. Secret Service) re <u>24</u> Order on Motion to Dismiss,, (Simpson, D.) (Entered: 03/26/2012)
03/27/2012	<u>28</u>	ORDER granting <u>25</u> Motion to Seal. Signed by Honorable A. Richard Caputo on 3/27/12 (jam, ) (Entered: 03/27/2012)
04/19/2012	<u>29</u>	ORDER: IT IS HEREBY ORDERED that Plaintiff David M. Baker shall have 21 days from the date of this Order to file any further motions or objections with the Court. If Plaintiff fails to do so the action will be dismissed. Signed by Honorable A. Richard Caputo on 4/19/12. (jam, ) (Entered: 04/19/2012)
05/08/2012	<u>30</u>	MOTION for Attorney Fees <i>pursuant to 5 U.S.C. §552(a)(4)(E)</i> by David M. Baker. (Attachments: # <u>1</u> Certificate of Nonconcurrency, # <u>2</u> Proposed Order)(Schermerhorn, Scott) (Entered: 05/08/2012)
05/08/2012	<u>31</u>	BRIEF IN SUPPORT by David M. Baker re <u>29</u> Order,. (Attachments: # <u>1</u> Exhibit(s) A through K (Former SJ Opposition Exhibits), # <u>2</u> Exhibit(s) L (Decision MSPB), # <u>3</u> Exhibit(s) M (Settlement MSPB), # <u>4</u> Exhibit(s) N (ROA Article), # <u>5</u> Exhibit(s) O (Attorney Fee Listing))(Schermerhorn, Scott) Modified on 5/14/2012 (ao, ). (Entered: 05/08/2012)
05/14/2012	<u>32</u>	MEMORANDUM OF LAW by David M. Baker re <u>31</u> Memorandum of Law, <i>Amended/Corrected Brief</i> . (Schermerhorn, Scott) (Entered: 05/14/2012)
05/25/2012	<u>33</u>	Unopposed MOTION for Extension of Time to Respond to Plaintiff's Motion for Attorney's Fees by U.S. Department of Homeland Security (U.S. Secret Service). (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Certificate of Concurrence)(Simpson, D.) (Entered: 05/25/2012)
05/29/2012	<u>34</u>	ORDER granting <u>33</u> Motion for Extension of Time. The United States may file its brief in opposition to Plaintiff's Motion for Attorney's Fees on or before June 8, 2012. Signed by Honorable A. Richard Caputo on 5/29/12 (jam, ) (Entered: 05/29/2012)
06/06/2012	<u>35</u>	BRIEF IN OPPOSITION re <u>30</u> MOTION for Attorney Fees <i>pursuant to 5 U.S.C. §552(a)(4)(E)</i> filed by U.S. Department of Homeland Security (U.S. Secret Service). (Attachments: # <u>1</u> Unpublished Opinions, # <u>2</u> Exhibit(s))(Simpson, D.)

		(Entered: 06/06/2012)
11/20/2012	<u>37</u>	MEMORANDUM re <u>30</u> MOTION for Attorney Fees <i>pursuant to 5 U.S.C. §552(a)(4)(E)</i> filed by David M. Baker Signed by Honorable A. Richard Caputo on 11/19/12. (jam) (Entered: 11/20/2012)
11/20/2012	<u>38</u>	ORDER re <u>37</u> Memorandum (Order to follow as separate docket entry). IT IS HEREBY ORDERED that Plaintiff David M. Bakers Motion for Attorneys Fees Pursuant to 5 U.S.C. § 552(a)(4)(E) (Doc. 30) is GRANTED. Attorney Schermerhorn is awarded attorneys fees in the sum of \$9,383.75. Signed by Honorable A. Richard Caputo on 11/19/12. (jam) (Entered: 11/20/2012)